



**CITY OF HAYWARD**  
**AGENDA REPORT**

AGENDA DATE 03/14/00

AGENDA ITEM 7

WORK SESSION ITEM \_\_\_\_\_

**TO:** Redevelopment Agency Board

**FROM:** Director of Community and Economic Development

**SUBJECT:** Adoption of Resolution of Necessity to Initiate Eminent Domain Proceedings to Acquire "Prince Street" Alley

**RECOMMENDATION:**

It is recommended that the Redevelopment Agency Board adopt the attached Resolution of Necessity to acquire the property known as "Prince Street" alley, in downtown Hayward.

**BACKGROUND:**

Prince Street is a 15-foot wide alleyway that extends in an east-west direction from Mission Boulevard to Watkins Street. Title information for this alley show indicated that it has been owned since 1921 by Nannie Smalley, George Smalley, Lelia S. Russell and J.D. Smalley. The alley was dedicated as a public right-of-way in 1926; however, underlying fee title was never acquired by the City. The property is located on a site that is the subject of a Disposition and Development Agreement (DDA) between the Agency and Albertsons, Inc. (the Developer) dated November 10, 1998. As stipulated under the DDA, the Developer is obligated to pay all costs to acquire the property, including legal fees and relocation costs.

Staff has attempted to locate the owners of the property. Initially it was hoped that the owners were related to Charles Smalley, who was in partnership with the late Manuel Newman and owned property nearby. Representatives of Mr. Smalley's family claim no knowledge of the individuals on title; nevertheless, Mr. Smalley's legal/real estate representative has been sent a notice of this hearing. In addition, staff has done a telephone book search for Smalleys and Russells in the Hayward - Fremont area, and personnel at First American Title have done an internet search. Finally, a legal notice requesting that these individuals or their heirs contact the Hayward Redevelopment Agency has been published in area newspapers, including the Daily Review, Tri-Valley Herald, the Argus, The Oakland Tribune, and the San Francisco Chronicle. To date, no one has contacted the Agency.

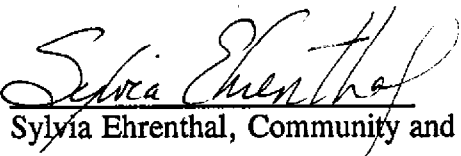
Due to the fact that the alley is a dedicated public right-of-way, the underlying fee title is considered to have only a nominal fair market value of \$100, according to the Agency's appraiser. In order for Albertson's to obtain clear title of the property, it has been recommended that the Agency acquire the property by eminent domain. If no one comes forth to claim ownership of the alley, the acquisition funds deposited with the court will be refunded.

Staff recommends that the Agency Board hold a public hearing, as required by law, to consider testimony on the following points: 1) whether there is a public interest and need to acquire the property, 2) whether the proposed retail center project has been planned in a manner which is the most compatible with the public's interest and results in the least private injury, and 3) whether an offer to acquire the property on a voluntary basis has been made to the owner before the public hearing. Staff further recommends that upon the conclusion of the public hearing the Agency Board adopt the attached Resolution of Necessity to authorize commencement of an eminent domain proceeding to acquire the subject property. A notice of the hearing has been published in the Daily Review.

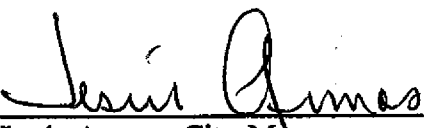
Prepared by:

  
Maret Bartlett, Redevelopment Director

Recommended by:

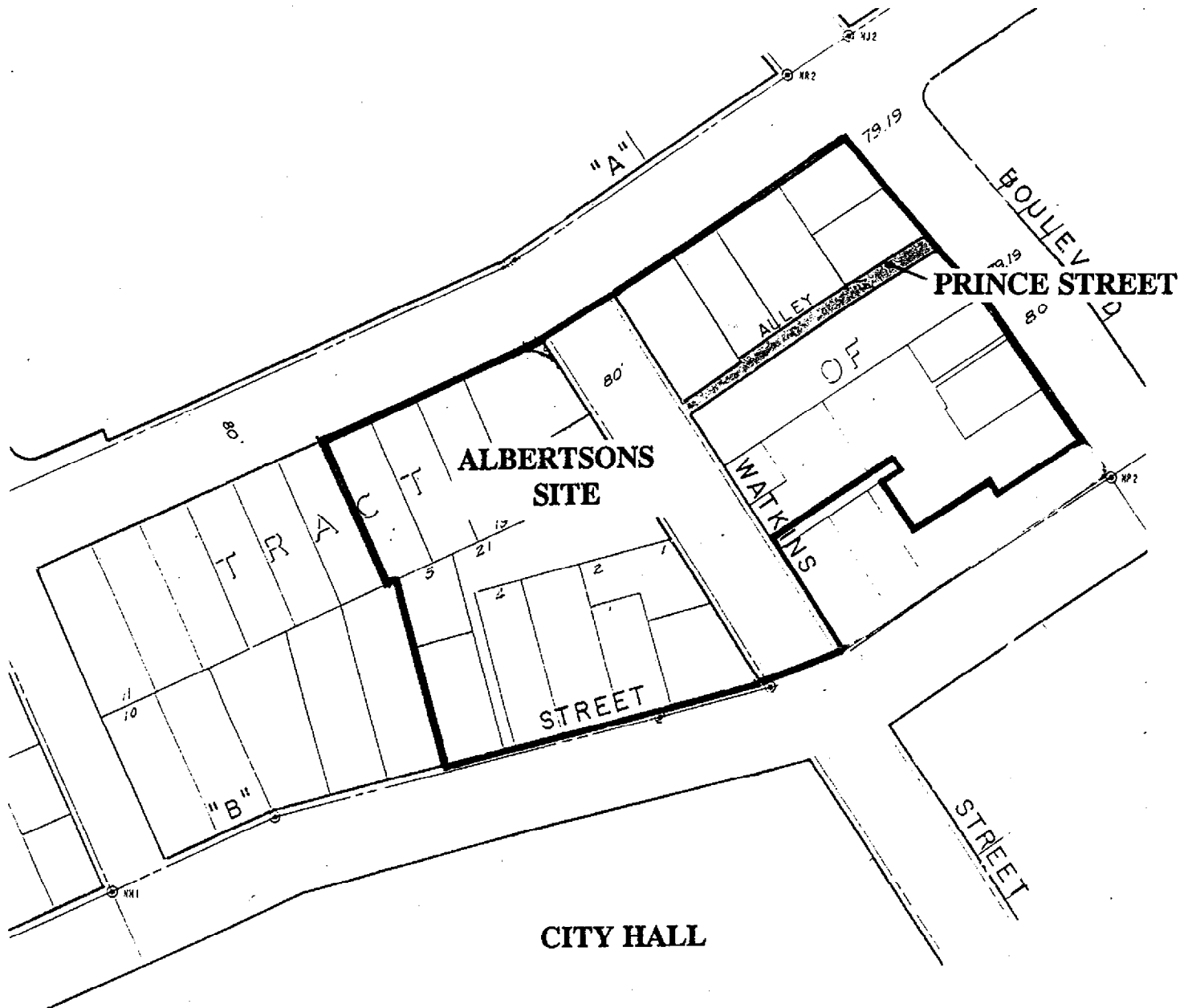
  
Sylvia Ehrenthal, Community and Economic Development Director

Approved by:

  
Jesús Armas, City Manager

Attachments: Exhibit A - Site Map  
Resolution

# EXHIBIT A - SITE MAP



**DRAFT**

jm 3-8-00

**REDEVELOPMENT AGENCY OF THE CITY OF HAYWARD**

**RESOLUTION NO. RA- \_\_\_\_\_**

**Introduced by Agency Member \_\_\_\_\_**

**RESOLUTION OF NECESSITY DECLARING A PUBLIC  
NEED FOR AND AUTHORIZING THE ACQUISITION AND  
IMMEDIATE POSSESSION BY EMINENT DOMAIN  
PROCEEDINGS OR OTHERWISE OF REAL PROPERTY  
KNOWN AS PRINCE STREET IN FURTHERANCE OF THE  
DOWNTOWN HAYWARD REDEVELOPMENT PLAN**

WHEREAS, prior to consideration of adoption of this resolution, the Redevelopment Agency staff has made numerous attempts contact the owners of the reversionary or reverter rights to the real property consisting of a fifteen feet wide strip of land located between Mission Boulevard and Watkins Street, between "A" Street and "B" Street, which has been dedicated as a public right-of-way since 1926 and is currently known as Prince Street, Hayward, California ("the Property"), regarding the Redevelopment Agency's acquisition of reversionary rights to such Property for development of a retail center project on a site located west of Mission Boulevard between "A" and "B" Streets, located in the Downtown Hayward Redevelopment Project area (" the 'B' Street Retail Center"); and

WHEREAS, a review of title records indicate that the Property was owned in 1921 by Nannie Smalley, George Smalley, Lelia S. Russell and J.D. Smalley ("Property Owners") and was dedicated as a public right-of-way in 1926 by Ordinance No. 233 N.S., adopted August 18, 1926 by the Board of Trustees of the Town of Hayward; and

WHEREAS, the Redevelopment Agency staff has made a number of efforts to locate the Property Owners and their successors-in-interest, which include phone book searches and notices published in newspapers of general circulation and an internet search conducted by personnel at First American Title Company; and

WHEREAS, the Redevelopment Agency secretary has caused publication of a notice in several newspapers of general circulation to provide notice to the Property Owners and their successors-in-interest of the March 14, 2000 hearing regarding the adoption of a resolution of necessity to acquire the Property; and

WHEREAS, no one has contacted the Agency or appeared at the March 14, 2000, hearing claiming ownership of the Property; and

WHEREAS, the City Council of the City of Hayward has previously considered the environmental impacts of the Redevelopment Plan in the program Environmental Impact Report certified in 1987 for the Downtown Hayward Redevelopment Project area ("Program EIR"); and

WHEREAS, the City Council has also found and determined that the environmental impacts of the "B" Street Retail Center project are within the scope of the impacts analyzed in the Program EIR: and

WHEREAS, the Redevelopment Agency has complied with the provisions of section 1245.235 of the Code of Civil Procedure of the State of California, including but not limited to a public hearing held on March 14, 2000, on the matters referred to in section 1240.030 of said code, prior notice of which was provided by publication in newspapers of general circulation, and to the owner's tenants; and

WHEREAS, the Redevelopment Agency is authorized to acquire real property by eminent domain by the by the Downtown Hayward Redevelopment Plan and the Constitution and statutes of the State of California, including, but not limited to, Health and Safety Code sections 33342 and 33367.

NOW, THEREFORE, BE IT RESOLVED by the Board of the Redevelopment Agency of the City of Hayward that it hereby finds, determines, and declares as follows:

1. That the public interest, convenience, and necessity require the acquisition by the Redevelopment Agency of the Property described in Appendix 1, attached to this Resolution, for the development of the "B" Street Retail Center project in the Downtown Hayward Redevelopment Project area, which project furthers the goals and objectives of the Downtown Hayward Redevelopment Plan;
2. That the public interest, convenience, and necessity require that a fee simple estate be taken by the Redevelopment Agency in and to said Property or related interests in real property;
3. That the "B" Street Retail Center project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
4. That the Redevelopment Agency's staff has attempted to notify the property owners and make the offer required by section 7267.2 of the Government Code of the State of California to Nannie Smalley, George Smalley, Lelia S. Russell and J.D. Smalley or their lawful heirs and successors-in-interest, the property owner, prior to the public hearing held on March 14, 2000, regarding the adoption of this resolution of necessity.

BE IT FURTHER RESOLVED that the Redevelopment Agency carry out said "B" Street Retail Center development and acquire the Property for inclusion in the development site; and

BE IT ALSO RESOLVED that the Agency's General Counsel is authorized and directed to take any and all lawful actions which are convenient or necessary to acquire immediate possession of and title to the Property by eminent domain proceedings or otherwise.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 2000

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: \_\_\_\_\_  
Secretary of the Redevelopment Agency of the  
City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
General Counsel

## **Legal Description of Prince Street**

A STRIP OF LAND, FIFTEEN FEET IN WIDTH, DESCRIBED AS FOLLOWS

BEGINNING AT A POINT IN THE SOUTHWESTERLY LINE OF CASTRO STREET, DISTANT THEREON 136 FEET SOUTHEASTERLY FROM THE INTERSECTION OF THE SOUTHEASTERLY LINE OF "A" STREET, FORMERLY KNOWN AS PEARCE STREET, WITH THE SOUTHWESTERLY LINE OF CASTRO STREET; AND RUNNING THENCE NORTHWESTERLY ALONG SAID LINE OF CASTRO STREET, 15 FEET TO A POINT; THENCE AT RIGHT ANGLES AND PARALLEL WITH SAID LINE OF "A" STREET, SOUTHWESTERLY 300 FEET TO A POINT IN THE NORTHEASTERLY LINE OF WATKINS STREET; THENCE ALONG SAID LINE OF WATKINS STREET, SOUTHEASTERLY 15 FEET; THENCE AT RIGHT ANGLES AND PARALLEL WITH "A" STREET, NORTHEASTERLY 300 FEET TO THE PLACE OF BEGINNING.

EXCEPTING THEREFROM, THAT PORTION DESCRIBED IN THE DEED TO G.P. CARPENTER, RECORDED DECEMBER 9, 1875, BOOK 118 OF DEEDS, PAGE 263, ALAMEDA COUNTY RECORDS.

### **APPENDIX 1 TO RESOLUTION OF NECESSITY**